

Highway 2 and Pine Lake Road Willowbrook

Applicant	Location	Proposal
Mary Jo Livingston for Livingston Investments	Highway 2, western most intersection with Pine Lake Road, near 75 th Street.	see below
<p>Recommendation: Denial</p> <p>The revised proposal for retail use for an auto dealership on the south side of Highway 2 is contrary to the mixed use goals of the Plan and the subarea plan. The proposal for the north side of Highway 2 would extend commercial uses along Highway 2, contrary to the approved Southeast Lincoln/ Highway 2 subarea plan. A “breach study” of Pine Lake Dam is underway and should be concluded prior to any changes in this area.</p>		

Status/Description

The applicant revised their proposal the Comprehensive Plan amendment on April 24th to the following:

- 1) Change from Urban Residential to Commercial on approximately 7 acres on the north side of Highway 2 between the Pine Lake neighborhood and Berean Church,
- 2) Change the use of commercial property on the south side, currently zoned O-3 Office, from Office to retail in the approved Southeast Lincoln/ Highway 2 Subarea plan.

On the north side of Highway 2, the applicant has submitted a draft site plan (see attached) showing 36 single family attached (townhome) dwelling units, two office buildings with a total of 24,000 square feet (SF) and one restaurant of approximately 11,000 SF. The northern portion of this site, north of the proposed townhomes, would remain designated as Green Space due to the existing wetlands, tree mass and drainage way. The property is currently zoned AGR Agricultural Residential.

On the south side, the applicant is showing an auto dealership building and out building sales office totaling approximately 60,000 SF of floor area. The applicant is proposing a 75 foot setback along Highway 2 on both the north and south sides.

A small lot on the south side of Highway 2 between Pine Lake Road and 75th Street is shown for a single office building of approximately 12,000 SF. This lot is already shown as commercial in the Comprehensive Plan and is designated for office use in the Southeast Lincoln/Highway 2 subarea plan. It is currently zoned AGR Agricultural Residential. No change is needed in the Comprehensive Plan or subarea plan for this small lot. The site plan shows a 50 foot setback along Highway 2 for the office building.

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Project History

September 1994 70th & Highway 2 Proposal

Mary Jo Livingston proposes a commercial center at 70th & Highway 2 as part of the new Comprehensive Plan. Motion fails 7-2 at Planning Commission to add 70th & Highway 2 as a commercial site. In November, the approved Comprehensive Plan designates a large commercial center at 84th & Highway 2. The site at 70th & Highway 2 is not included as commercial but is designated as Low Density Residential.

March 1998 Third Annual Review of the 1994 Comprehensive Plan - 70th & Highway 2

The City Council and County Board approve Amendment #26, at the request of Livingston Investments, to change 38 acres from Low Density Residential to Commercial on the south side of Highway 2, north of Pine Lake Road and east of 70th Street.

September 1999 Amendment to 1994 Comprehensive Plan - 70th & Highway 2

The Country Meadows Homeowners Association and Southeast Coalition of Homeowners proposed an Amendment #48 to change the land use designation from Commercial to Low Density Residential. The City Council denied amendment on March 27, 2000.

December 4, 2000 Change of Zone from AGR to B-2 and O-3 Office

The City Council adopted Change of Zone # 3283 from AGR to B-2 and O-3, Use Permit #132, and Annexation #00005. The approved plan included the eastern most 11.5 acres as O-3 Office Park after testimony from neighborhood groups opposed to the project. **The applicant agreed to O-3 zoning** with restrictions on total trip generation for the site. At the public hearing, the attorney for the applicant stated that the **Livingston Inc. had agreed that 30 acres north of Highway 2** (which they also owned) **would develop in accordance with the Comprehensive Plan's residential designation.**

March 26, 2001 "Southeast Lincoln/Highway 2 Subarea Plan"

The City Council and County Board (in April) adopt the "Southeast Lincoln/Highway 2 Subarea Plan" which includes the eastern part of this property as Office. The land on the north side of Highway 2 is designated as Urban Residential, with a small portion immediately adjacent to Highway 2 for "Special Residential Use."

Comprehensive Plan Implications

The "Southeast Lincoln/Highway 2 Subarea Plan" adopted subarea plan on Page 11 specifically notes that significant commercial development on this property could "impact Highway 2, the overall road network and adjacent residential properties." Another guiding principle of the subarea plan was to respect the character of the existing low density residential areas.

The subarea plan defined "Special Residential" uses such as a "churches, domiciliary care facilities,

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retirement apartments, child care facilities, townhomes or other uses permitted by special permit... in more urban settings, which are further from existing single family residences, apartments may be also appropriate.” (page 10 of Subarea Plan.) The adjacent land to the east is not designated urban, but is instead designated as Low Density Residential.

It is clear from the record that the Willowbrook annexation, use permit and change of zone were approved in December 2000 as a mixed use project with retail and office uses. The applicant had originally proposed retail use for the entire site. But as a result of neighborhood opposition, concerns about providing an adequate transition to adjacent residential uses, and discussion with the City, the applicant agreed to provide for office uses on the east part of the site. At the hearing, it was stated that the applicant agreed to not develop commercial uses on the north side of Highway 2. The approved subarea plan, adopted four months later also reflected this agreement on the future land uses for these properties on both sides of Highway 2.

There are substantial commercial uses already designated along the Highway 2 corridor. Additional sites for retail uses, such as an auto dealership, are not warranted. The vicinity of 56th and Highway 2 is designated as a Community Center in the Comprehensive Plan and this property is within 1 mile of the Regional Centers at 84th and Highway 2. There is considerable space for additional commercial uses at 84th and Highway 2 and at other locations in Lincoln.

The Comprehensive Plan encourages the development of mixed use centers, not centers that are solely for retail use. The Plan states:

“Commerce centers should contain a mix of land uses, including residential uses.” (Page F 41)

“Single use centers are discouraged – for example, office parks should include supporting retail component, while shopping centers should include an applicable amount of office uses.” (Page F 41)

“Mix of office, retail and service uses” – description of future Commerce Centers (page F 42)

Originally, the property at 70th and Highway 2 was proposed for an auto dealership. This fact was mentioned during the Willowbrook use permit testimony in November 2000. The applicant had stated that due to neighborhood opposition to the auto dealership, their previous plans had been revised to exclude this use. In order to allow an auto dealership, the 11.5 acres would have to be zoned from O-3 Office to H-4 General Commercial. This district also permits other more intensive commercial uses. The B-2 zoning district does not permit automobile sales.

Highway 2 will be at capacity in the future, even assuming that the South Beltway is open and a significant amount of through traffic uses the beltway instead of Highway 2. The traffic modeling done in 1993 and ever since that time have reinforced that additional commercial development along Highway 2 will have a negative impact. One of the main principles of the Southeast Lincoln/ Highway 2 Subarea Plan is to have “efficient use of the transportation network: land use decisions must consider the impacts on the transportation network.”

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The applicant has stated that the auto dealership and proposed office uses would not generate more traffic than what is allowed under the annexation agreement for this property. The total proposed land use is for 107,000 SF of retail, restaurant and office uses. Public Works and Utilities notes that a traffic study should be submitted for the site. They also note that “the land use plan as identified in the Comprehensive Plan designates this specific area as residential. This proposed land use (commercial) would significantly increase the number of vehicular trips generated and as a result, improvements to Highway 2 would be needed.” The proposed restaurant and offices on the north side may cause difficulties in order to provide adequate stacking and turning movements from Highway 2, due to the sharp turn in the access road on the north. This is a site issue that would have to be reviewed further.

The topography of the land on the north rises quickly above the grade of Highway 2. As a result, a majority of the site is either above the elevation of Highway 2 or is partially shielded from Highway 2 by the hill on the property. The land is then bordered to the north and northwest by wetlands and tree masses and to the east with residential uses, making this a suitable residential site.

The Public Works and Utilities Watershed Management section notes that:

“This area lies below the dam for Pine Lake. Currently the Pine Lake dam is classified as a significant hazard dam. Development downstream of the dam could cause the dam to be reclassified as a high hazard dam, which would require the owner of the dam to make the appropriate improvements to meet this classification. Improvements of this magnitude would be costly. Although development has already occurred further downstream, any development in this area should be closely scrutinized to save future cost to the dam owner and to minimize risk to the public.”

A significant hazard dam classification is based on development downstream. According to the State of Nebraska Department of Natural Resources, state regulations, Chapter 19 “001.02 Significant Hazard Dam. A dam located in areas where failure may damage isolated homes, occasionally occupied buildings, main highways, minor railroads or interrupt public utility use or service.” If there is more downstream development in an area subject to impact by a dam failure, then a dam could be classified as “High Hazard Dam. A dam located where failure may cause loss of life, or serious damage to homes, normally occupied industrial and commercial buildings, important public utilities, main highways, or major railroads.”

The property owner to the north of the wetlands area, has proposed the Edenton Woods preliminary plat. As part of that plat, the Department of Natural Resources noted that a breach study should be conducted. Staff met with representatives from the Department of Natural Resources, and it was determined that until a breach analysis is completed for the Pine Lake dam, decisions should not be made on the type and location of development downstream. A draft breach analysis for the Pine Lake dam was submitted to the Department of Natural Resources in late April for review.

The Lower Platte South NRD notes that “none of this area is mapped as 100 year floodplain but runoff issues exist due to several hundred acres of land that are being developed upstream and to the fact that the Pine Lake dam is located directly east of the property which was designed with only limited flood control capacity. We would recommend that whatever development is allowed require that buildings be located to allow ample room for runoff and passage of flood flows from the watershed.”

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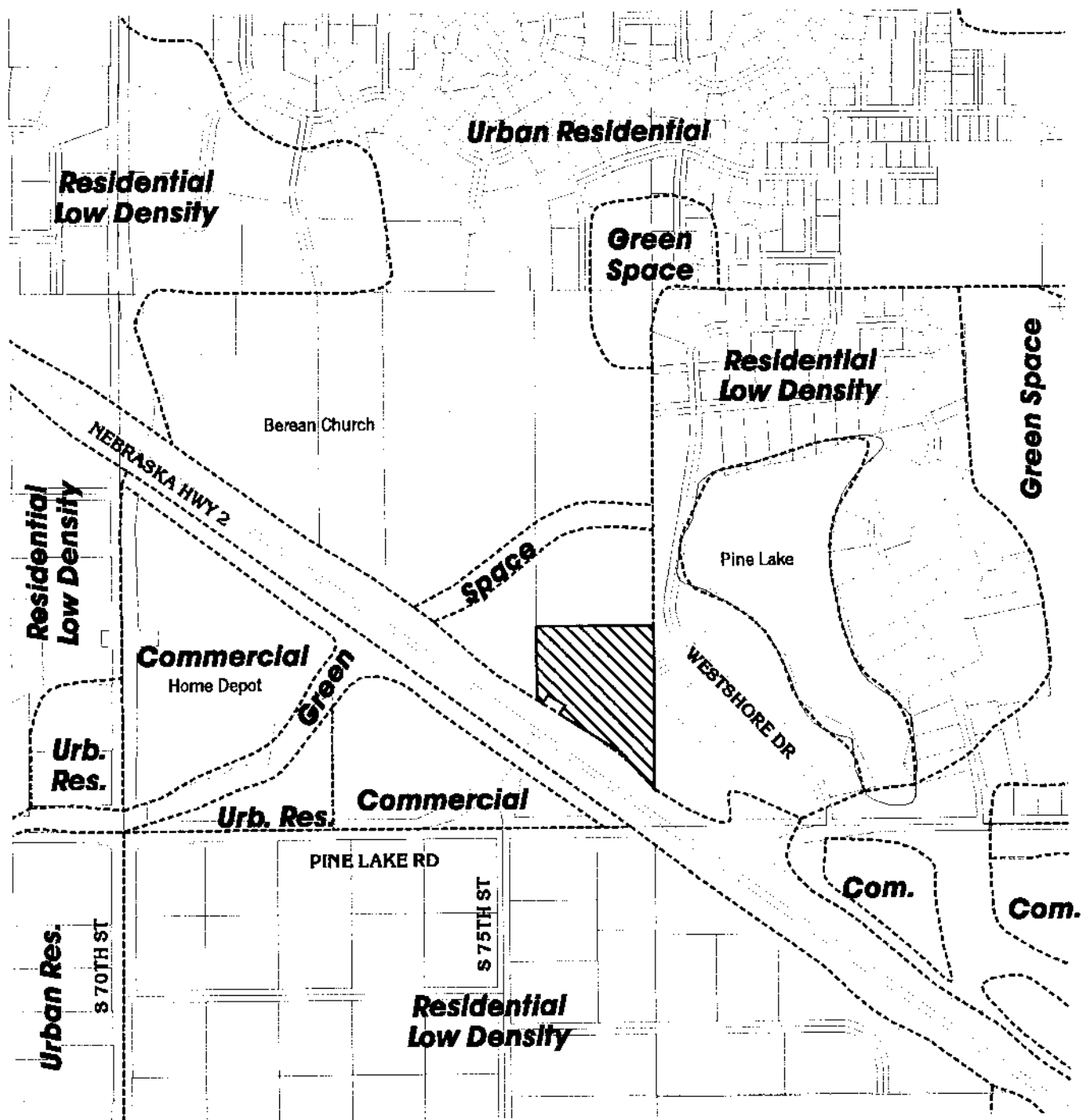
Letters in opposition to this proposal were received from the Country Meadows Homeowners Association, the Pine Lake Homeowners Association

Conclusion

Due to the topography, adjacent residential land uses and proximity to wetlands and tree masses, the property on the north side of Highway 2 is suitable for zoning to an urban residential use, such as R-1 Residential, which is compatible with the adjacent neighborhood. The applicant, as part of the Willowbrook shopping center to the south, had stated that this land would be developed in residential uses.


The land on the south side of Highway 2 should remain designated for office use. There are acreage residential lots immediately to the south and the office provides an appropriate transition. The Comprehensive Plan encourages the development of mixed use commercial centers. The current office zoning will provide for both employment office uses and retail on the same site. As part of the approval of the Home Depot and B-2 zoning, the applicant agreed to O-3 Office zoning on this site to provide an adequate transition and mixed use site. Previously, there had been stated neighborhood opposition to an auto dealership on this site.

A breach study for the area downstream of the Pine Lake dam is underway. Any potential land subject to flooding due to a dam failure should not be developed with either commercial or residential uses. The breach study does not mean that there is evidence that the dam is faulty or subject to a failure. The study is an analysis of the area impacted, if such an event were to occur. Since a substantial portion of the applicant's property is at a higher elevation than the drainageway leading from the dam it is possible that the impact may be quite small. But the area of impact should be known, prior to development of any property along the drainage way leading from the dam.



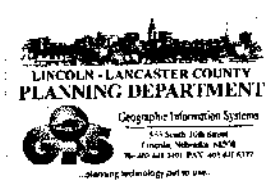
S 75th & Highway 2

Comprehensive Plan Proposed Amendment #13

- Future Service Limit
- Land Use Boundary
- Res** Land Use Category
-  From Urban Residential to Commercial



FEET
0 300 600 900



Lg Livingston Investments, Inc.

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April 23, 2003

Mr. Marvin Krout
Planning Department
Planning Director
555 S. 10th Street, Room 213
Lincoln, NE 68508

Re: Amendment to Previously Submitted Comprehensive Plan Amendment

Dear Mr. Krout:

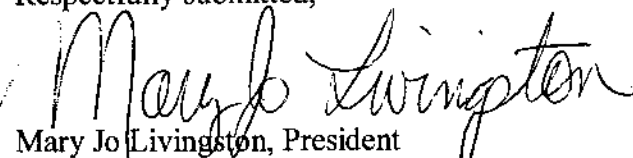
On behalf of Livingston Investments, Inc., I am submitting an Amendment to our Comprehensive Plan Amendment, which was applied for February 19, 2003. We believe an amendment to the Southeast Lincoln/Highway 2 Subarea Plan will be necessary as well. In addition to Lot 77 I.T., the following Properties will also be involved in this request, Outlot "B", Willowbrook Addition, and Lot 56, all located in the SW1/4, Section 15, Township 9 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska. The Properties are shown on the enclosed plans.

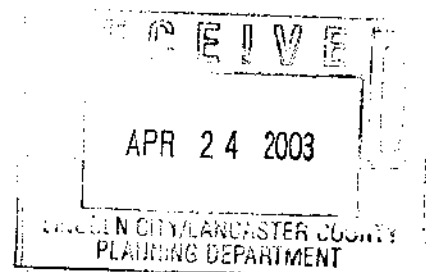
The current Comprehensive Plan shows Lot 77 as being developed for urban density residential uses. We are amending our current application to show Lot 77 as a mix of urban density uses (town homes) and office uses. The existing wetlands shall be preserved and maintained as green space.

Outlot "B" is shown as Commercial/Office in the current Comprehensive Plan. We would like to change that designation to Commercial//Retail to allow an automobile dealership, which would be a very low traffic generator. Lot 56 is presently designated as Commercial with no restrictions in the current Comprehensive Plan. We would intend for it to retain its Commercial Designation with a restriction to Office.

We are submitting this proposal as a package, and, as such, we intend to maintain an attractive architectural component for it as we have done with the Home Depot element. All landscaping, setbacks, etc., will be done in a manner consistent with the standards we established along Highway 2 with the Home Depot project. We look forward to working with you and the Planning Department to bring this project to fruition. Thank you.

Respectfully submitted,


Mary Jo Livingston, President
Livingston Investments, Inc.



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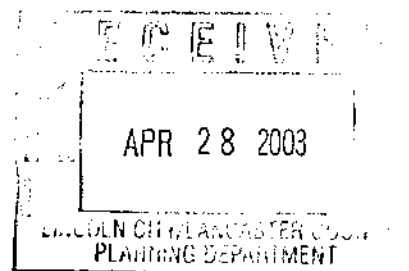
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April 28, 2003

Mr. Marvin Kraut
Planning Director
Lincoln/Lancaster County Planning Department
555 South 10th Street
Suite 213
Lincoln, NE 68508



RE: Comprehensive Plan Annual Review
Comments to Amendments 12 and 13
Our File No.: 22660.45549

Dear Mr. Kraut:

I am writing on behalf of my client, Pine Lake Association, the neighborhood association that represents the Pine Lake Area. The Association wishes to go on record in opposition to two of the proposed Comprehensive Plan Amendments, each of which proposes to increase the amount of commercially designated property along the Highway 2 corridor between 56th and 98th Streets. Some of our comments in opposition to these requests are general, and some are specific to the particular request. I will provide my general comments first, and then address each of the amendments seriatim.

GENERAL COMMENTS

The Southeast Lincoln/Highway 2 Subarea Plan, in its Executive Summary, aptly notes that "the route along Highway 2 in this subarea, with the natural landscape and residential character, is one of the most beautiful entrances into Lincoln." With that in mind, numerous groups expended substantial time and effort in developing that Subarea Plan with an eye toward assuring that this entryway corridor into the Capitol City remains both functional and appealing. The Southeast Lincoln/Highway 2 Subarea Plan was adopted by the City Council on March 26, 2001, and by the Lancaster County Board on April 24, 2001. The Subarea Plan, as adopted, contemplated the development of approximately 2.3 million square feet of additional

commercial space in addition to the existing 1.4 million square feet in the vicinity of Edgewood. As you know, the analytical model to determine the trip capacity of this corridor assumed the construction of the South and East Beltways that are, as yet, only in the planning stages. Nevertheless, we already have 2.1 million square feet under development with another 200,000 square feet (84th & Pine Lake Road) on the verge of approval.

Thus, designation of additional commercial space within this corridor will necessarily exasperate a growing traffic problem for which no solution is currently under construction even for the existing, approved commercial square footage. The Subarea Plan provides for urban residential and special residential use of the properties described in proposed amendments 12 and 13 and this designation was most recently confirmed by the adoption of the Lincoln City-Lancaster County Comprehensive Plan dated May 28, 2002. The Plan again shows these areas as urban residential. It is difficult to imagine that any significant changes have occurred warranting deviations from the adopted Comprehensive Plan designations that are less than one year old.

SPECIFIC COMMENTS - SOUTH 60TH AND HIGHWAY 2 (PROPOSED AMENDMENT 12)

The Pine Lake Association opposes this proposed amendment because, as discussed above, it represents a significant deviation from the recently approved Subarea Plan and the 2002 Comprehensive Plan. The 55 acres proposed for commercial designation is the same area for which a similar designation was requested in 1994, which was denied. This proposed request would accommodate development of nearly 600,000 square feet of commercial area, which is essentially the size of a community center as designated in the Comprehensive Plan. While the proponents suggest that this designation would provide the land-use transitions contemplated in the Subarea Plan's goals, the fact is, that without specific zoning and use permit applications being approved concurrently with this proposed designation, the result is simply the addition of commercial space that may or may not accommodate an appropriate transition to the surrounding residential. On the other hand, the current designation of this area as primarily special residential under the Subarea Plan already contemplates appropriate transitional uses such as churches, domiciliary, care facilities, retirement apartments, child care facilities, townhomes and other uses permitted by special permit in residential districts. These types of uses would provide for reasonable transition from the adjacent trade center to the surrounding residential areas.

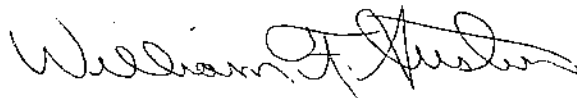
SPECIFIC COMMENTS - SOUTH 75TH AND HIGHWAY 2 (PROPOSED AMENDMENT 13)

Proposed Amendment 13 directly affects the Pine Lake Association as it is immediately west of and adjacent to the Pine Lake area. In addition to the fact that this area is designated as special residential within the Subarea Plan and urban residential in the Comprehensive Plan, the current questions as to the adequacy of the Pine Lake dam for purposes of protection of downstream development and the need for completion of a breach study strongly militates against any proposed change of land use designation at this time. Only after a breach study is completed can it reasonably be determined whether the current designation or some other designation is most appropriate for this area. In any event, mere designation of this area as

commercial would again, without such a change being accompanied by a specific zoning designation and use permit particulars, open the area to any form of commercial development regardless of whatever the developer may suggest is currently contemplated.

In summary, Pine Lake Association suggests that both of the above-described Comprehensive Plan changes are contrary to the Southeast Lincoln/Highway 2 Subarea Plan, and are at best premature and at worst unnecessary additional commercialization within this corridor. The Pine Lake area is still in the process of absorbing the "culture shock" of only a few short years ago being a semi-rural development and equestrian area apart from and independent from the City. Now it finds itself in close proximity to one of the largest commercial developments within the City of Lincoln and with rapid residential and smaller commercial development on its fringes. More commercial development now would be overwhelming. Pine Lake residents, along with others in the area, have contributed to the development of the Subarea Plan and suggest that the compromises and decisions incorporated into that document should be respected until compelling reasons justify changes. At this time, Amendments 12 and 13 are not so justified and we respectfully request the Planning Commission and the City Council to deny these proposed changes.

Sincerely,

A handwritten signature in dark ink, appearing to read "William F. Austin". The signature is fluid and cursive, with a large, stylized initial "W".

William F. Austin,
Attorney at Law
on behalf of Pine Lake Association

WFA:viw

C: Tom Huston
Mary Jo Livingston
Dave Shoemaker

April 28, 2003

Christine Kiewra
6400 S. 66th Street
Lincoln, Nebraska 68516

Dear Planning Commission and City Council Members:

I am writing on behalf of the Country Meadows Homeowners Association to express our support for the Southeast Lincoln/Highway 2 Subarea Plan as it was originally written. We do not support any of the amendments that propose changing designations from urban residential to commercial in the Subarea Plan. Our Association was opposed to the approval of commercial zoning at 70th and Highway 2 for the Willowbrook Shopping Center (including Home Depot) and we attended many public meetings, fully participating in the process to approve the Subarea Plan just two years ago.

Country Meadows residents have many concerns about additional commercial space being added along Highway 2. Our primary concern relates once again to a commercial proposal at 66th Street and Highway 2. Repeated requests to change this land from residential to commercial have been debated and defeated. Nearly 10 years ago, Shopko purchased this land and requested a commercial designation in order to build a large shopping center--not even as dense as the one currently proposed. City planning staff, the City Council, and Mayor Johanns all recognized the catastrophic effects that would have on the area and defeated the proposal. Even at that time, good planning guidelines indicated the need to keep the area residential. The staff report noted that the Trade Center was intended to be the buffer between Country Meadows and commercial development and that nearby intersections could not sustain the increased traffic. Since that time, the land remained Low-Density/AGR.

When the Highway 2 Subarea Plan was proposed just two years ago, there was yet another request to the change this property to commercial and that was defeated. Mayor Wesley went on record saying that he would veto any additional commercial development in the Subarea. City Council Chair Cook said that he wanted all future City Council members to remember the pledge not to allow any additional commercial development in the Subarea.

Country Meadows residents continue to oppose commercial development in this area for the following reasons: 1) Increased traffic on Highway 2 and South 66th Street, 2) Sufficient commercial development already approved to serve the area, 3) Increased lighting, noise, and litter, and 4) Diminished aesthetics.

Traffic

Traffic on Highway 2 is at its capacity. This is a busy city entryway and it cannot handle the additional traffic generated by yet another shopping center. The only route for Country Meadows residents to drive north, east, or west from our neighborhood is to enter Highway 2 from 66th Street. That intersection is without a stoplight or turning lane and the speed limit has recently been raised to 55 mph. These factors already make it a difficult and dangerous intersection.

South 66th Street was built as a narrow, asphalt, winding county road without street lights, curbs and gutters. It is intended as a street only for residents and it is not able to handle increased through traffic. Parking is allowed on both sides of the street and when cars are parked along it there is barely room to drive down the road. There are no sidewalks so the narrow street is also used by pedestrians and bicyclists.

A connection between South 66th Street and a commercial development would dramatically increase traffic on the street. Even having a commercial development next to the neighborhood without connections would significantly increase traffic on the street according to city planning staff.

Sufficient Commercial Development

Highway 2 is an important and beautiful entryway into Lincoln as well as a Capitol View Corridor with sufficient commercial development. Currently the largest shopping center in Lincoln is under construction at 84th and Highway 2. The Willowbrook Shopping Center is about half built at 70th and Highway 2. There are established centers at 56th and Highway 2-- Edgewood, Alamo Plaza, and the Trade Center. The Trade Center (which includes less intense commercial development) was approved as the western buffer between our neighborhood and commercial development. Any more commercial development will make Highway 2 one long strip mall.

Studies indicate south Lincoln is already over-retailed. Moreover, there is a lot of land already designated commercial that is vacant or undeveloped. These indicators show that market need is not what it is driving the requests for increased commercial designations.

Lighting, Noise, and Litter

Commercial development brings with it large lit parking lots, noise from delivery trucks and other vehicles, loud speakers, and many people. It also brings litter from fast-food restaurants and other shopping stores. These would all intrude on the quiet country feel of our neighborhood. Area residents purchased our homes knowing that we were along a highway and that we would eventually be part of the city, but we believed the Comprehensive Plan (which designated adjoining property as residential!) would protect the integrity and property value of our investments.

Diminished Aesthetics

The proposed commercial development diminishes the aesthetic quality of a primary Lincoln entryway and Capitol View Corridor. Many times city leaders point to North 27th Street, Cornhusker Highway, and West O Street as examples of city entryways that have been marred by poor planning. Each of these entryways contain strip mall after strip mall rather than clustered, high-quality shopping centers. As one drives into Lincoln from the east on Highway 2, one notices commercial centers with large set backs, beautiful, low-density housing, and a bike path and green space along the Highway. Any additional commercial along Highway 2 will create the same strip mall effect as so many other city entryways.

Large scale commercial development at 66th Street and Highway 2 mars this area containing several beautiful neighborhoods including Country Meadows, Family Acres, and Southfork. The partners considering purchasing the land have indicated that commercial development will necessitate dramatically changing the topography of the land by leveling its rolling hills and clearing the trees to pave enormous parking lots.

Change of any kind often meets neighborhood resistance. Our neighborhood recognizes that change will come and that is why we initially and continually support the Subarea Plan. We would love it if the land would remain corn fields and horse barns but we know that won't happen. We supported the change from Low Density/AGR to Urban Residential in the Subarea Plan. That is the only land usage Country Meadows will support.

Respectfully submitted,

Christine Kiewra, President
Country Meadows Homeowners Association